PETITION NOT PRINTED

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 115

STEPHEN FRANKLIN REYNOLDS, PETITIONER

vs.

H. G. COCHRAN, JR.,
DIRECTOR OF DIVISION OF CORRECTIONS,
FLORIDA

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF THE STATE OF FLORIDA

PETITION FOR CERTIORARI FILED OCTOBER 9, 1959
CERTIORARI GRANTED MAY 31, 1960

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[fol. 1]

IN THE SUPREME COURT OF THE STATE OF FLORIDA

STEPHEN FRANKLIN REYNOLDS, PETITIONER

vs.

STATE OF FLORIDA, H. G. COCHRAN, DIVISION OF CORRECTIONS, RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS—Filed July 28, 1959

COMES NOW YOUR PETITIONER

Stephen Franklin Reynolds, into this Honorable Court, a Citizen of the United States of America, State of Florida, in proper person and without counsel seeking Writ of Habeas Corpus.

It is verily believed by your petitioner that there is meritorious cause to petition this Honorable Court for Writ of Habeas Corpus.

Your petitioner contends that as a citizen of the United States, he is intitled to any and all amendments of the constitution and bill of rights of the United States and the State of Florida, made and provided to protect and safe guard his personal freedom and liberty.

Your petitioner was convicted of the crime of being a "second offender" on the 20th day of February 1958 in the criminal court of record in and for the County of Polk, Florida, and sentenced to Ten (10) years in the State Prison at Raiford Florida for the afore said crime of being a "second offender".

The body and person of your petitioner, Stephen Franklin Reynolds is presently under sentence, at Avon Park Correctional Institution, Avon Park, Florida. Further that he is being held, detained and deprived of his personal freedom without due process of law, further that the trial court violated his Constitutional rights and the fundamental fairness that is so essential to the very concept of justice.

Wherefore, your petitioner having no other remedy, prays unto this Honorable Court for Writ of Habeas Corpus to issue on grounds as follows.

Your Petitioner was informed against as a "second offender" on February 13, 1958, notwithstanding the fact that he had completed a two (2) year sentence and had obtained his freedom by expiration of the afore said two (2) year sentence.

Your petitioner at that time was free and living a normal, useful life, completely unaware that his personal freedom was in jeopardy until he was informed against under Florida Statute 775-09.

[fol. 2] Your petitioner contends that it should not be the duty of the trial courts and or lower courts to conjure hippothetical situation to which the statute conceivably might be applied to and if so applied might be unconstitutional. In the case of Mussa C. Batch vs. State of Florida in a recent ruling, this Honorable Court ruled that a person is entitled to know just when in his life he is no longer subject to the power of the court to translate his liberty to inprisonment. In the instant case how can your petitioner know when in his life he is no longer subject to have his liberty translated to imprisonment, even after expiration of the present sentence, can he again be imprisoned without committing another crime as in the instant case?? Surely this Honorable Court will not condone this practice, as it is against and in direct conflict with the afore mentioned ruling.

Your petitioner contends that the conviction related to in the information was had in May 1934 thus it cannot be used to charge "second offender", as the afore mentioned statutes were not in effect until 1957 and therefore would tend to make the information fatally defective.

Your petitioner further contends that the trial court was again in error when at the time of trial the court failed to deduct from the new sentence the time served on previous two (2) year sentence, which was completed prior to the "second offender" charge. However, this two (2) years was later applied to the present sentence

in a Habeas Corpus hearing in 10th Judicial Circuit at Bartow Polk Florida and is not being contested. The judgment of the trial court reads precisely as follows, "The court adjudges you Stephen Franklin Reynolds, to be guilty of the offense of second offender. Order and judgement of the court that you Stephen Franklin Reynolds for your said offense be confined in the State Prison of Florida, at hard labor for the period of ten (10) years.

Your petitioner contends that the proceedings had against him were willfully wrong, false malicious and without valid process of legal authority, further that Florida Statute 775-09 were not meant to be construed so as to make it an offence or crime for a person to have been convicted more than once. If the said statute does in effect make it an offence or a crime to have been convicted more than once, then the statute 775-09 would create a public offence and an ever present threat to ones personal liberty;

Thus your petitioner contends that he is now being held under a sentence, order and judgment, based on a charge that does not constitute an offense or a crime in this state.

Article V Constitutional amendments of the Bill of Rights of the United States of America; so states in part: nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any Criminal case to be wittness against himself. Hence, your petitioner contends that his constitutional rights were abridged in the instant case, inasmuch as he was compelled to be a wittness against himself, and further, was put in jeopardy again for a crime committed in 1934 for which your petitioner served in prison until expiration.

Your petitioner contends that article I section 9 paragraph 3 of the Constitution would in effect, bar the 1934 Conviction and make it illegal to charge your petitioner with "second offender" relative to the said Conviction [fol. 3] of 1934. Ex-post facts, related to in afore said article I section 9 and 10, forbids the passage of any law that makes a deed a crime that wasn't a crime before.

Your petitioner contends that this means at any time we can do all the law permits for, even if at a later date these things are made illegal. The law cannot be dated back to make illegal anything that was done before the law was passed. Hence; your petitioner contends that in 1934 there was no charge existing of "second offender" and further that no two convictions could be combined to make a third offense applicable to a person, thus subjecting him to imprisonment without his committing another crime.

Your petitioner would show this Honorable Court that at the time of his arrest he was living in Valusia County, DeLand Florida, that he was arrested without a warrant, that he was arrested on strength of a pick up order from Sheriff Office, Bartow, Polk County, Florida, that the arresting officer, a deputy sheriff of Volusia County did not know why he was arresting your petitioner and did not have a warrant to make a legal arrest, further that your petitioner was taken against his will across five (5) county lines. The said county lines being Volusia, Seminole, Orange, Osceala, into Polk County all of State of Florida, without his knowing why he was arrested or the arresting officer knowing why or what charge he was making arrest for; Your petitioner, was taken across the afore said counties by the arresting officer, a deputy sheriff of Volusia County, Florida.

Your petitioner contends that once he was in the clutches of the Criminal Court of Record in and for Polk County Florida; he was a convicted person before he was ever tried.

To support the above statement your petitioner would show that he was forced to go before the court against his will; that once before the court your petitioner informed the court that he then had legal counsel on the way to represent him in what ever charge may be; a better discription of afore said known by Mrs. Sadie M. Bradley, 317 West Minnesasata Avenue, DeLand Volusia County, Florida, and, D. C. Laird; attorney at Law; Lakeland Polk Florida. That petitioner had been arrested on the 18th day of February 1958 in Valusia County, and his attorney was to arrive this morning this date being the 20th day of February 1958, that after being so in-

formed "the trial court so stated to your petitioner "you do not need counsel in this case". Counsel would not be of any assistance you your petitioner, "No point in calling a Doctor to a man already dead."

The trial court then proceeded to read off two (2) convictions from your petitioners record and then asked, You are guilty of these two convictions, are you not? Petitioner saying yes your Honor, but the court, I find, you guilty of being a "second offender" and sentence you Stephen Franklin Reynolds to ten (10) years in State Prison at Raiford Florida:

Your petitioner further contends that if a person can be informed against and sentenced to prison at any time after a second offender conviction. Whether the said person is in prison or otherwise, then a person whom has been twice or more convicted can never in his life time be out from under jurisdiction of the translate his liberty to imprisonment. Your petitioner contends that his constitutional rights were abridged, that he is now being detained and deprived of his freedom illegaly and without just cause;

Wherefore your petitioner, Stephen Franklin Reynolds prays unto this Honorable Court for Writ of Habeas Corpus to issue.

PETITIONER SHALL EVER SO PRAY

• • • •

[fol. 4] *Duly sworn to by Stephen Franklin Reynolds, jurat omitted in printing.*

[fol. 5] IN THE
CRIMINAL COURT OF RECORD IN AND FOR
POLK COUNTY, FLORIDA

Case No. 21181

STATE OF FLORIDA, PLAINTIFF

vs.

STEPHEN FRANKLIN REYNOLDS, ALIAS FRANK REYNOLDS, ALIAS FRANKLIN REYNOLDS, ALIAS STEPHEN F. REYNOLDS, ALIAS S. F. REYNOLDS, DEFENDANT

ORDER SETTING ASIDE SENTENCE PREVIOUSLY IMPOSED HEREIN ON FEBRUARY 20, 1958, AND ENTERING NEW SENTENCE—August 25, 1958

It appearing from the records herein that the defendant, Stephen Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, was by this Court on the 20th of February, 1958, senteneed to serve ten years in the State Prison, commitment having been issued in connection with said sentence on February 21, 1958; and The Court now having been furnished with the Order issued by the Honorable Gunter Stephenson one of the Circuit Judges in and for the Tenth Judicial Circuit of Florida in connection with a Writ of Habeas Corpus wherein it is Ordered that the defendant, Stephen Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, be brought before this Court for the entry of a proper sentence in accordance with said Order;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Order of the Criminal Court of Record in and for Polk County, Florida, wherein the defendant, Stephen [fol. 6] Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, was, on February 20, 1958, sentenced to serve ten years in the State Prison at Raiford, Florida, be,

and it is hereby, ordered cancelled, set aside and declared to be of no further force and effect whatsoever.

It Is Furthur Ordered, Adjudged and Decreed that you, the defendant Stephen Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, in compliance with the Order of Honorable Gunter Stephenson one of the Circuit Judges in and for the Tenth Judicial Circuit of Florida entered on the 5th day of August, 1958, be, and you are hereby, sentence to serve ten years in the State Prison at Raiford, Florida, and the proper authorities of the State Prison be, and they are hereby Ordered to give you credit in connection with this sentence for all times served in connection with the sentence imposed against you by this Court on the 10th of May, 1956, wherein you were convicted of the crime of Grand Larceny, and further that you be given credit for any and all time previously served in connection with the sentence entered by this Court in this case on February 20, 1958, which sentence is herein being set aside and cancelled, together with any gain time or other credit to which you may be entitled in the premises.

Done and Ordered at Bartow, Polk County, Florida, this the 25th of August, A. D. 1958.

/s/ Roy H. Amidon
Judge

[fol. 7] IN THE
CRIMINAL COURT OF RECORD, IN AND FOR
POLK COUNTY, FLORIDA

S-3703-K

No. 21181

STATE OF FLORIDA

vs.

STEPHEN FRANKLIN REYNOLDS, alias FRANK REYNOLDS, alias FRANKLIN REYNOLDS, alias STEPHEN F. REYNOLDS, alias S. F. REYNOLDS

INFORMATION FOR SECOND OFFENDER

IN THE NAME AND BY AUTHORITY OF THE STATE OF FLORIDA

CLIFTON M. KELLY, County Solicitor for the County of Polk, prosecuting for the State of Florida in said County, under oath, information makes that STEPHEN FRANKLIN REYNOLDS, alias FRANK REYNOLDS, alias FRANKLIN REYNOLDS, alias STEPHEN F. REYNOLDS, alias S. F. REYNOLDS

of the County of Polk and State of Florida, on the 13th day of February in the year of our Lord, one thousand nine hundred and fifty-Eight, in the County and State aforesaid,

having heretofore been on the 30th day of May, in the year of our Lord, One Thousand Nine Hundred and Thirty-Four convicted of the crime of robbery, a felony under the laws of the State of Florida, in the Criminal Court of Record of Polk County, Florida and was by said Court sentenced to serve a term of Five (5) years in the State Prison, which said judgment was not reversed, and he, the said STEPHEN FRANKLIN REYNOLDS, alias FRANK REYNOLDS, alias ~~FRANKLIN~~ REYNOLDS, alias ~~STEPHEN~~ F. REYNOLDS, alias S. F. REYNOLDS, having been on the 10th day of May in the year of our Lord One Thousand Nine Hundred and Fifty-Six convicted of the crime of grand larceny, a felony under the laws of the

State of Florida, in the Criminal Court of Record of Polk County, Florida and was by said court sentenced to serve a term of two (2) years in the State Prison, which said judgment was not reversed; THEREFORE, the said STEPHEN FRANKLIN REYNOLDS, alias FRANK REYNOLDS, alias FRANKLIN REYNOLDS, alias STEPHEN F. REYNOLDS, alias S. F. REYNOLDS, has been convicted of two (2) felonies under the laws of the State of Florida, contrary to Section 775.09, Florida Statutes, 1957.

[fol. 8] contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the State of Florida.

/s/ Clifton M. Kelly
County Solicitor, Polk County, Florida

STATE OF FLORIDA)
COUNTY OF POLK)

Personally appeared before me, Clifton M. Kelly, County Solicitor for Polk County, Florida, who being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which if true, would constitute the offense therein charged.

/s/ Clifton M. Kelly
County Solicitor

Sworn to and subscribed before me this 13th day of February, A. D. 1958.

/s/ Robert J. Haslett
Clerk of the Criminal Court of Record
By D. C.

Presented by the County Solicitor and filed Feb. 13, 1958.

/s/ Robert J. Haslett
Clerk of the Criminal Court of Record

Defendant arraigned in open court and to the within information pleaded

This day of A. D. 19

Clerk of the Criminal Court of Record
Polk County, Florida

WITNESSES FOR THE STATE

Capias Ordered & Issued.
Bond set at
$5,000.00—
Returnable at
Feb. 17, 1958
at 10:00 a. m.

[fol. 9] IN THE
CRIMINAL COURT OF RECORD IN AND FOR
POLK COUNTY, FLORIDA

No. 21181 SECOND OFFENDER

STATE OF FLORIDA

vs.

STEPHEN FRANKLIN REYNOLDS, alias FRANK REYNOLDS, alias FRANKLIN REYNOLDS, alias STEPHEN F. REYNOLDS, alias S. F. REYNOLDS.

JUDGMENT AND SENTENCE—February 20, 1958

Pursuant to capias having been order and issued on February 13, 1958, the Defendant in the above entitled cause appearing this day before the Court and being duly arraigned, did then and there freely and voluntarily plead guilty to the Information filed in said cause, and being asked by the Court if he had anything to say why the sentence of the law should not be passed upon him, offers nothing in bar thereto.

THEREFORE, the Court adjudges you, Stephen Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, to be guilty of the offense of Second Offender, you having been convicted of two (2) felonies under the laws of the State of Florida, contrary to Section 775.09, Florida Statutes, 1957, for which you stand convicted on your plea, and it is the sentence, order and judgment of the Court that you, Stephen Franklin Reynolds, alias Frank Reynolds, alias Franklin Reynolds, alias Stephen F. Reynolds, alias S. F. Reynolds, for your said offense, be confined in the State Prison of Florida at hard labor for a term of Ten (10) Years.

THIS February 20, A. D. 1958

[fol. 10] IN THE
SUPREME COURT OF FLORIDA

STEPHEN FRANKLIN REYNOLDS, PETITIONER

vs.

H. G. COCHRAN, JR., Director of Division of Corrections, RESPONDENT

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS—September 15, 1959

The above-named petitioner has filed a petition for writ of habeas corpus to be issued to the respondent in the above entitled cause, and upon consideration thereof, it is ordered that said petition be and the same is hereby denied.

• • • •

[fol. 11] Clerk's Certificate to foregoing transcript omitted in printing

[fol. 12] SUPREME COURT OF THE UNITED STATES

No. 384, Misc., October Term, 1959

STEPHEN FRANKLIN REYNOLDS, PETITIONER

vs.

H. G. COCHRAN, JR., Director of Division of Corrections

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI—May 31, 1960

ON CONSIDERATION of the motion for leave to file a petition for writ of habeas corpus herein,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, denied.

Treating the papers submitted as a petition for writ of certiorari, certiorari to the Supreme Court of the State of Florida is granted. The petitioner is permitted to proceed in forma pauperis and the case is transferred to the appellate docket as No. 973.

☆ U. S. GOVERNMENT PRINTING OFFICE 1960 574193 560

[fol. 13]

SUPREME COURT OF THE UNITED STATES

No. 115, October Term, 1960

STEPHEN FRANKLIN REYNOLDS, Petitioner,

vs.

H. G. COCHRAN, JR., Director of Division of Corrections, Florida.

On Consideration of the motion to enlarge the record in this case,

ORDER POSTPONING FURTHER CONSIDERATION OF MOTION TO ENLARGE RECORD, ETC.—October 24, 1960

It Is Ordered by this Court that further consideration of the motion to enlarge the record is postponed to the hearing of the case on the merits.